



Reprinted  
February 22, 2002

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## ENGROSSED SENATE BILL No. 402

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DIGEST OF SB 402 (Updated February 21, 2002 12:30 PM - DI 94)

**Citations Affected:** IC 36-2; IC 36-9.

**Synopsis:** County recording issues. Requires a county recorder to accept and record an instrument, even though the amount of money submitted exceeds the amount of the filing fee, if the instrument meets statutory requirements for filing. Requires the county recorder upon request to refund the amount of the overpayment that exceeds three dollars. Allows the county recorder to retain a portion of an overpayment as an administrative fee. Requires the county recorder to establish a written policy on the acceptance of sewer lien instruments. Requires a municipal sewage works to file an individual instrument for each property on which fees are delinquent instead of a filing list of properties on which fees are delinquent if the individual instrument for each property is requested by the county recorder.

**Effective:** July 1, 2002.

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(HOUSE SPONSORS — LYTLE, SAUNDERS, FRENZ)

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January 10, 2002, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 24, 2002, reported favorably — Do Pass.

January 28, 2002, read second time, ordered engrossed. Engrossed.

January 31, 2002, read third time, passed. Yeas 50, nays 0.

#### HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Local Government.

February 14, 2002, reported — Do Pass.

February 21, 2002, read second time, amended, ordered engrossed.

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ES 402—LS 7185/DI 94+



Reprinted  
February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED SENATE BILL No. 402

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-2-11-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **(a)** The recorder may  
3 demand ~~his~~ **the recorder's** fees before entering and recording an  
4 instrument.

5 **(b) If:**

6 **(1) a person, in payment of a recording fee required under**  
7 **IC 36-2-7-10, submits an amount that exceeds the amount of**  
8 **the fee set forth in IC 36-2-7-10; and**

9 **(2) the instrument submitted meets the statutory**  
10 **requirements for filing;**  
11 **the recorder shall accept and record the instrument. If the amount**  
12 **submitted is at least three dollars (\$3) more than the fee required**  
13 **by IC 36-2-7-10, the amount that exceeds three dollars (\$3) shall be**  
14 **refunded upon the request of the person filing the document. The**  
15 **recorder may retain as an administrative fee up to three dollars**  
16 **(\$3) of the excess of the amount submitted.**

17 SECTION 2. IC 36-2-11-8, AS AMENDED BY P.L.87-2001,

ES 402—LS 7185/DI 94+



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The recorder shall record all instruments that are proper for recording, in the order in which they are received in the recorder's office for record. The recorder shall record deeds and mortgages in separate records.

(b) The recorder shall establish a written procedure for the public to obtain access to the original instrument in order to protect the instrument from loss, alteration, mutilation, or destruction. The recorder shall post the written procedure in the recorder's office.

(c) Providing an exact copy of an original instrument in the possession of the recorder is sufficient to comply with the inspection of public records provided under IC 5-14-3-3 if the original document has not been archived.

**(d) The recorder shall establish and post in a public place a written policy on the acceptance of sewer lien instruments by the recorder.**

SECTION 3. IC 36-9-23-33, AS AMENDED BY P.L.98-2000, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (1), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare:

**(1) a list of the delinquent fees and penalties that are enforceable under this section, which must include ~~the~~:**

~~(1) the~~ **(A)** name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

~~(2) the~~ **(B)** description of the premises, as shown by the records of the county auditor; and

~~(3) the~~ **(C)** amount of the delinquent fees, together with the penalty; **or**

**(2) at the request of the county recorder an individual instrument for each lot or parcel of real property on which the fees are delinquent.**

(c) The officer shall record a copy of each list **or each individual instrument** with the county recorder who shall charge a fee for recording it in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list **or on an individual instrument** a notice stating that a lien against

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the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists **and instruments** prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists **and instruments** prepared under subsection (b) and recorded under subsection (c), after September 1 of the preceding calendar year and before September 1 of the current calendar year, the officer shall before December 15 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection (d) or (e), the county auditor of each county (excluding a county having a consolidated city) shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due no later than the due date of the next May installment of property taxes. However, in a county having a consolidated city, the delinquent fees, penalties, service charges, and recording fees are due not later than the due date of the next installment of property taxes. The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After the date of certification in each year, the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to



1 a county containing a consolidated city.

2 (i) If a delinquent fee, penalty, service charge, recording fee, and  
3 certification fee are not paid, they shall be collected by the county  
4 treasurer in the same way that delinquent property taxes are collected.

5 (j) At the time of each semiannual tax settlement, the county  
6 treasurer shall certify to the county auditor all fees, charges, and  
7 penalties that have been collected. The county auditor shall deduct the  
8 service charges and certification fees collected by the county treasurer  
9 and pay over to the officer the remaining fees and penalties due the  
10 municipality. The county treasurer shall retain the service charges and  
11 certification fees that have been collected, and shall deposit them in the  
12 county general fund.

13 (k) Fees, penalties, and service charges that were not recorded  
14 before a recorded conveyance shall be removed from the tax roll for a  
15 purchaser who, in the manner prescribed by section 32(d) of this  
16 chapter, files a verified demand with the county auditor.

17 (l) A board may write off a fee or penalty under subsection (a) that  
18 is for less than forty dollars (\$40).

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 402, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 402 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 402, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that Senate Bill 402 be amended to read as follows:

Page 1, line 13, delete "excess" and insert "**amount that exceeds three dollars (\$3)**".

Page 1, line 14, after "." insert "**The recorder may retain as an administrative fee up to three dollars (\$3) of the excess of the amount submitted.**".

Page 1, between lines 14 and 15, begin a new paragraph and insert:  
"SECTION 2. IC 36-2-11-8, AS AMENDED BY P.L.87-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) The recorder shall record all instruments that are proper for recording, in the order in which they are received in the recorder's office for record. The recorder shall record deeds and mortgages in separate records.

(b) The recorder shall establish a written procedure for the public to obtain access to the original instrument in order to protect the instrument from loss, alteration, mutilation, or destruction. The recorder shall post the written procedure in the recorder's office.

(c) Providing an exact copy of an original instrument in the possession of the recorder is sufficient to comply with the inspection of public records provided under IC 5-14-3-3 if the original document has not been archived.

**(d) The recorder shall establish and post in a public place a written policy on the acceptance of sewer lien instruments by the recorder."**

Page 2, line 16, delete "an" and insert "**at the request of the county recorder an**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 402 as printed February 15, 2002.)

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